

Appl. No. 09/923,931  
Amendment dated March 28, 2005  
Reply to Office Action of December 27, 2004

### **REMARKS**

Applicants have received and reviewed an Office Action dated December 17, 2004. By way of response, Applicants have canceled claims 2-4, 16, and 39-43 without prejudice, amended claims 1, 23-25, and 75, and added claims 85-100. Claims 1, 5-11, 13-15, 17-38, and 75-78, 85-100 are pending. No new matter is presented.

Amended claims 23-25 have been placed in independent form. Claims 86-100 depend from claim 23, 24, or 25.

For the reasons given below, Applicants submit that the pending claims are in condition for allowance and notification to that effect is earnestly solicited.

### **Support in the Specification as Filed for Newly Presented and Amended Claims**

#### **Newly Presented Claims**

Applicants have added claims 85-100. Support for these claims is found throughout the specification and the originally filed claims.

Claim 85 depends from claim 1. This claim was added and recites a cleaning composition "substantially free of additives." Support for claim 85 is found in the specification at least at pages 43-48. The Examples demonstrate that additives are not a necessary aspect of the invention.

Claims 86-88 depend from claims 23-25. These claims were added to recite application comprising "extracting the carpet or upholstery." These claims find support in the specification at least at page 2, lines 7-9. These claims also find sufficient support in claim 2 as originally submitted.

Claims 89-91 depend from claims 23-25. These claims were added to recite application comprising "pre-spotting, pre-spraying, or extracting the carpet or upholstery, or combinations thereof." These claims find sufficient support in claim 4 as originally submitted.

Claims 92-94 depend from claims 23-25. These claims were added to recite a cleaning composition comprising "inorganic active oxygen compound, organic active oxygen compound, or mixtures thereof." These claims find support in the specification at least at page 12, lines 5-7. These claims also find sufficient support in claim 26 as originally submitted.

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Claims 95-97 depend from claims 23-25. These claims were added to recite a cleaning composition comprising "alkalinity source, acidity source, cleaning enzyme, hardening agent, solubility modifier, detergent filler, defoamer, antimicrobial agent, a precipitation threshold agent or system, aesthetic enhancing agent, effervescent agent, activator for the active oxygen compound, or combinations thereof." These claims find support in the specification at least at page 29, lines 10-13. These claims also find sufficient support in claim 36 as originally submitted.

Claims 98-100 depend from claims 23-25. These claims were added to recite a cleaning composition comprising "nonionic surfactant, phosphonate, condensed phosphate, hydrogen peroxide adduct, C1-C6 carboxylic acid, alkali metal hydrogen carbonate, alkali metal hydrogen phosphate, alkali metal hydrogen sulfate, or combinations thereof." These claims find support in the specification at least at page 11, lines 17-20. These claims also find sufficient support in claim 37 as originally submitted.

#### **Amended Claims**

Applicants have amended claims 1, 23-25, and 75. Support for these claims is found throughout the specification and the originally filed claims.

Claim 1 was amended to recite a cleaning composition "substantially free of an activator for active oxygen compound." Support for this amendment is found in the specification at least at page 33, lines 8-10. Activators are not essential to the presently claimed invention. Further, Examples 1-3 demonstrate that activators are not necessary to achieve the results of this invention (see page 43-48). The Examples illustrate the presently claimed invention has superior cleaning power without the addition of an activator compound (see Id).

Claim 1 was also amended to recite applying the composition by "extracting the carpet or upholstery; or brushing or rubbing the cleaning composition on the carpet; or pre-spotting, pre-spraying, or extracting the carpet or upholstery; or combinations thereof." Support for this amendment is found in cancelled claims 2-4. Support for this amendment is also found in the specification at least at page 39, lines 12-26, and at page 40, lines 1-8.

Applicants amended claims 23-25 to recite a cleaning composition that also comprises "about 30 to about 90 wt-% active oxygen compound comprising peroxygen moiety; about 0.1 to

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about 50 wt-% surfactant; and about 1 to about 99 wt-% builder." Support for this amendment is found in claim 1. Support for this amendment is also found in the specification at least at page 8, lines 20-25 (Table 1), and page 9, lines 1-10 (Tables 2 and 3).

#### **Claim Objection**

The Examiner objected to claim 16. Claim 16 has been canceled, which renders this objection moot.

#### **Rejections of Claims under 35 U.S.C. § 102**

##### **DE 4026806 Reference**

The Examiner rejected claims 1-11, 13-16, 18-22, 26-33, 36-39, 42 and 75-78 under 35 U.S.C. §102(b) as being anticipated by DE 4026806. Applicants respectfully traverse this rejection.

The Office Action asserts that DE 4026806 discloses treating carpeted floors with a cleaning solution consisting of a solid inorganic peroxide, an activator, a tenside/surfactant, and other additives.

First Applicants respectfully point out that the present invention relates to methods and compositions of cleaning or sanitizing carpet or upholstery. The present invention does not require the use of an activator in conjunction with the active oxygen compound. Further, the present invention also not only cleans carpet or upholstery, but, in an embodiment, also sanitizes them.

Nonetheless, solely to advance prosecution of the present application, Applicants have amended claim 1 to recite a cleaning and sanitizing composition "substantially free of an activator for active oxygen compound." As such, the amended claims do not include the activator required in DE 4026806. Because all of the other rejected claims ultimately depend from claim 1, this rejection is moot for the dependent claims.

Further, Applicants note that claims 23-25, which were not subject to this rejection, have been rewritten in independent form. Accordingly, claims 23-25 can be allowed over this reference.

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Accordingly, the reference cited in this rejection neither teaches nor suggests the presently claimed invention. Withdrawal of this rejection is respectfully requested.

#### **Trani et al. Reference**

The Examiner rejected claims 1, 5, 7-11, 13, 14, 17-20, 26-33, 35-39, 42, and 75-78 under 35 U.S.C. § 102(b) as being anticipated by Trani et al. (US 5,703,031). Applicants respectfully traverse this rejection.

Applicants respectfully submit that the amendment to claim 1 also overcomes this rejection.

The Office Action asserts that the Trani et al. reference discloses a granular laundry composition such a composition can be used in a washing machine. The Office Action asserts Trani et al. anticipates because the laundry composition as taught by Trani et al. would also suggest cleaning upholstery because "upholstery" can be washed as other laundry items are washed by soaking.

First Applicants respectfully point out that the present invention relates to methods of cleaning upholstery or carpet by applying the composition "directly onto the area to be treated" (see page 39, lines 12-13). Carpet cannot be washed as other laundry items. This reference fails to disclose or suggest a method or composition for cleaning carpet. This reference only discloses how to use a cleaning composition in soaking conditions (see col. 1, lines 17-33). Thus, this reference fails to disclose how to effectively clean and sanitize carpet or upholstery without the assistance of a washing machine. Accordingly, these references neither teach nor suggest the presently claimed invention.

Nonetheless, solely to advance prosecution of the present application, Applicants have amended claim 1 to recite a cleaning composition that is applied by extracting the carpet or upholstery, or brushing or rubbing the cleaning composition, or pre-spotting, pre-spraying, or extracting the carpet or upholstery. Thus, the invention of claim 1 is not used in a soaking environment. The Trani et al. reference neither teaches nor suggests the presently claimed invention.

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Further, Applicants note that claims 23-25, which were not subject to this rejection, have been rewritten in independent form. Accordingly, claims 23-25 can be allowed over this reference.

Accordingly, the reference cited in this rejection neither teach nor suggest the presently claimed invention. Withdrawal of this rejection is respectfully requested.

**Rejections of Claims Under 35 U.S.C. §103(a)**

**Reference DE 402608**

Examiner rejected claims 34 and 35 under 35 U.S.C. §103(a) as being obvious over DE 4026806. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the amendment to claim 1 that overcomes the rejection under § 102(b) also overcomes this rejection.

The Office Action asserts the teachings of DE 4026806 provide a reasonable expectation of success of cleaning carpets with a composition containing phosphonate, aminocarboxylate, surfactant, hydrogen peroxide, and carbonate.

The invention of claim 1 relates to a cleaning composition that does not require an activator for the active oxygen compound. The claim language has been amended to reflect this aspect of the presently claimed invention. The presently claimed invention unexpectedly and advantageously provides a cleaning composition with superior cleaning and sanitizing capabilities without an activator for the active oxygen composition (see, e.g., examples on pages 44-48).

DE 4026806 only discloses a cleaning composition that contains an oxygen activator as an essential component (see, e.g. page 2, /1, and page 10). DE 4026806 neither suggests or teaches that a cleaning composition comprising phosphonate, aminocarboxylate, surfactant, hydrogen peroxide, and carbonate but without an activator would successfully clean carpets and upholstery. In fact, the ingredients of DE 4026806 consist of solid inorganic peroxide, an activator, and a tenside. Further additives are not required (see page 14). Thus, this reference neither teaches nor suggests the presently claimed invention.

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Further, Applicants note that claims 23-25, which were not subject to this rejection, have been rewritten in independent form. Accordingly, claims 23-25 can be allowed over this reference.

Accordingly, the presently claimed invention is not obvious in light of DE 4026806. Withdrawal of this rejection is respectfully requested.

#### **Williams Reference**

The Examiner rejected claims 1, 5-11, 13, 14, 17-19, 22-33, 42, and 75-78 under 35 U.S.C. § 103(a) as being obvious over Williams (US 6,159,922). Applicants respectfully traverse this rejection.

Applicants respectfully submit that the amendment to claim 1 also overcomes this rejection.

The Office Action asserts that Williams discloses bleach compositions consisting of builders, heavy metal ion sequestrants, nonionic and cationic surfactants. The Office Action asserts that Williams teaches a laundry composition that can wash some types of upholstery in an automatic washing machine.

The presently claimed invention relates to methods employing a composition that cleans and/or sanitizes carpet or upholstery (see at least page 1, line 5-6). The invention includes cleaning carpet or upholstery without removing the carpet or upholstery from its original location, and applying the claimed composition "directly onto the area to be treated" (see page 39, lines 12-13). Claim 1 was amended to recite a cleaning method where the cleaning composition is applied by "extracting the carpet or upholstery, or brushing or rubbing the cleaning composition on the carpet, or pre-spotting, pre-spraying, or extracting the carpet or upholstery." The presently claimed invention teaches the use of a cleaning composition in a completely different manner and on different textiles than Williams.

Claims 23-25, which have been rewritten in independent form, relate to a method of cleaning carpet. Therefore, this rejection no longer applies to these claims and their dependent claims.

Williams teaches a composition in an aqueous wash solution to be used in a laundry machine (col. 29, lines 51-52). The invention is to be diluted 40 g to 300 g of detergent

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dissolved in 5 to 65 liters of water, as "employed in conventional machine laundry methods" (col. 29, lines 54-59). There is no suggestion in Williams that a laundry composition could be used directly on upholstery, let alone carpet. The invention is used in a different manner than the presently claimed invention. There is no suggestion or indication that the cleaning composition in Williams could be directly applied to carpet or upholstery with a reasonable expectation of success.

The invention in Williams is preferably released during the entire wash cycle, and not immediately (see, e.g., col. 30, lines 12-21). In a preferred embodiment, the composition is not applied directly in the washing machine, but released through a dispensing device (see, e.g., col. 30, lines 17-67). It would not be obvious to one skilled in the art that a laundry composition could likewise be directly applied to upholstery. One would likely believe such a method of using the composition would destroy the upholstery without the presence of copious amounts of water.

Accordingly, based on the foregoing differences, Applicants respectfully submit that the references cited in this rejection neither teach nor suggest the presently claimed invention, and withdrawal of this rejection is respectfully requested.

**Prior Art Rejections of Claims Employing Reference 2003/0162685**

The Examiner rejected claims 1, 5, 7-11, 13, 14, 16-18, 26-43 and 75 - 78 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0162685. The Examiner rejected claims 15 and 19-25 as being obvious over 2003/0162685. Applicants respectfully traverse these rejections, and respectfully request reconsideration in view of the following comments.

The present application was filed on August 7, 2001. Therefore, subject matter which was prior art under former 35 U.S.C. § 103 via 35 U.S.C. § 102(e) and 103(a) are now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." 35 U.S.C. § 103(c).

Applicants declare that the claimed invention and US 2003/0162685 were, at the time the invention was made owned by, or subject to an obligation of assignment to, Ecolab Inc.

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Therefore, US 2003/0162685 is disqualified as prior art. Withdrawal of the rejections is respectfully requested.

**Conclusion**

In summary, Applicant submits that each of claims 1, 5-11, 13-38, 75-78 and 85-101 is in condition for allowance, and notification to that effect is earnestly solicited. The Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below, if the Examiner believes that doing so will expedite prosecution of this patent.

Respectfully submitted,

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